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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,915	10/12/2004	Modesto M. Pesavento	213201.00226	7316

27160 7590 06/27/2008

PATENT ADMINISTRATOR  
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EXAMINER
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DAVIS, ROBERT B

ART UNIT	PAPER NUMBER
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1791

MAIL DATE	DELIVERY MODE
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06/27/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/510,915	<b>Applicant(s)</b> PESAVENTO, MODESTO M.	
	<b>Examiner</b> Robert B. Davis	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 34-70 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 60-64 is/are allowed.
- 6) ☒ Claim(s) 34-38, 40, 42-55, 57, 58, 65, 69, 70/44-70/54, 70/57, 70/58, 70/65 and 70/69 is/are rejected.
- 7) ☒ Claim(s) 39, 41, 56, 59, 66-68, 70/55, 70/56, 70/59 and 70/66-70/68 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/12/4, 8/19/5, 4/23/7</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 34-38, 42-54, 57, 58, 70/44-70/54, 70/57 and 70/58 are rejected under 35 U.S.C. 102(e) as being anticipated by Neter et al (6,737,007: figures 1-8; column 2, line 52 to column 3, line 14; column 3, lines 40-48; column 5, line 59 to column 6, line 34; column 7, line 56 to column 8, line 16; column 8, lines 55-67; and column 10, lines 11-18)

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Neter et al teach a porous insert (52) of porous aluminum having a porosity of 3-20 microns, located within a cooling tube (62) held within a frame, and having seals

(201) adjacent the mouth of the parison (100), and connection to a vacuum source such that the parison is deformed in the porous insert and cooled as the parison is held against the surface of the insert by suction. Please note that the intended correction for a specific defect is intended use and does not positively distinguish the method or apparatus. The reference states that the preform is reshaped in the porous insert and it is immaterial what defect is present in the preform.

3. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

4. Claims 44-48, 55 and 57 are rejected under 35 U.S.C. 102(b) as being anticipated by Terauchi et al (5,217,729: figures 1-3, 7-10; column 2, lines 63-68; column 3, line 60 to column 4, line 6; column 4, lines 45-55; and column 5, lines 13-17).

Terauchi et al teach a mold (30) having a plurality of porous half annular cocks (31d, 33c and a cock in groove 32c-see column 4, lines 29-33) of sintered metal in the mold and suction passages (31c, 32f, 33d, 32d) to draw vacuum through the sintered metal inserts (cocks). The reference states that the parison is cooled within the mold. The intended use of an injection molded preform is intended use and not material to the structure of the claims rejected in this section.

5. Claims 65, 69, 70/65 and 70/69 are rejected under 35 U.S.C. 102(b) as being anticipated by Oueslati et al (6,332,770: figures 2-6 and column 5, line 63 to column 6, line 18).

Oueslati et al teach a device for cooling injection molded preforms having a porous cooling pin of aluminum or steel to cool a preform (11). The reference does not disclose deforming of the parison but such is intended use as applicant has not positively claimed a vacuum source for performing such deformation.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neter et al (6,737,007) taken together with Larsson (5,460,761: figures 1-2 and column 4, lines 7-24)

Neter et al disclose all claimed features except for the use of positive pressure with the porous insert to eject the preform from the cooling mold.

Larsson discloses a pair of porous molds for cooling an injection molded article; wherein gas under pressure is used to eject the product from the mold.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the process of Neter et al by using positive pressure to eject a product from a mold as disclosed by Larsson as such was a well known manner of ejecting a molded article which takes advantage of the properties of the porous mold. The combination equates to incorporation of a well known ejection technique known in the art to yield predictable results.

***Allowable Subject Matter***

8. Claims 60-64 are allowed over the prior art of record.
9. Claims 39, 41, 56, 59, 66-68, 70/55, 70/56, 70/59 and 70/66-70/68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
10. The following is a statement of reasons for the indication of allowable subject matter: In regards to claim 39, none of the prior art of record teach or describe the step of applying an input of locally varying pressure conditions along the surface of the insert in combination with the features of claim 34. In regards to claim 41, none of the prior art of record teaches or suggests a step of deforming the preform for varying of a circumferential distribution of material in a wall of the preform causes a remolding of the preform to effect an oval distribution of material in a wall of the preform in combination with the method of claim 34. In regards to claim 60, none of the prior art of record teaches or suggests a method of processing injection molded preforms comprising: injection molding the preform, receiving the preform on a mandrel with an internal portion of the preform on a surface of the mandrel, wherein at least a portion of the mandrel comprises a porous material and deforming the preform by the action of negative pressure applied through the porous material to draw a preform into contact therewith and compensate for a defect in the injection molded preform. The closest prior art Oueslati et al disclose a porous cooling pin, but fails to disclose or suggest deforming of the parison by drawing the preform onto the surface of the mandrel with

vacuum. In regards to claims 66 and 68, the prior art fails to disclose or suggest the combination of the features of claim 65 with a seal for sealing the preform portion to prevent the intake of ambient air when negative pressure is applied or at least one membrane that defines a distributor chamber to remold the preform.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Davis whose telephone number is 571-272-1129. The examiner can normally be reached on Monday-Friday 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert B. Davis/  
Primary Examiner, Art Unit 1791  
6/22/08

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